DOCUMENT RESUME

ED 443 746 SO 031 364

TITLE	The Bible and Public Schools: A First Amendment Guide.
INSTITUTION	Vanderbilt Univ., Nashville, TN. Freedom Forum First Amendment Center.; National Bible Association, New York, NY.
PUB DATE	1999-00-00
NOTE	17p.
AVAILABLE FROM	Vanderbilt University, Freedom Forum First Amendment Center, 1207 18th Avenue South, Nashville, TN 37212. Tel: 800-830-3733 (Toll Free); Tel: 615-321-9588; Web site: www.freedomforum.org.
PUB TYPE	Guides - Non-Classroom (055)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Biblical Literature; Curriculum Problems; Elementary Secondary Education; *Public Schools; *Religion; Religion Studies; Student Rights
IDENTIFIERS	*Bible; *First Amendment; United States Constitution

ABSTRACT

This First Amendment Guide promotes a model of religious fairness and respect. Public schools should protect the religious-liberty rights of students of all faiths or none. Curriculum should include study about religion as an important part of a complete education. The advice offered in this guide draws on shared vision and relies on recent consensus statements about the role of religion in public schools under current law. The focus is on the Bible because of the need to address the conflicts and confusion surrounding the Bible in the public-school curriculum. (Contains 21 notes.) (BT)

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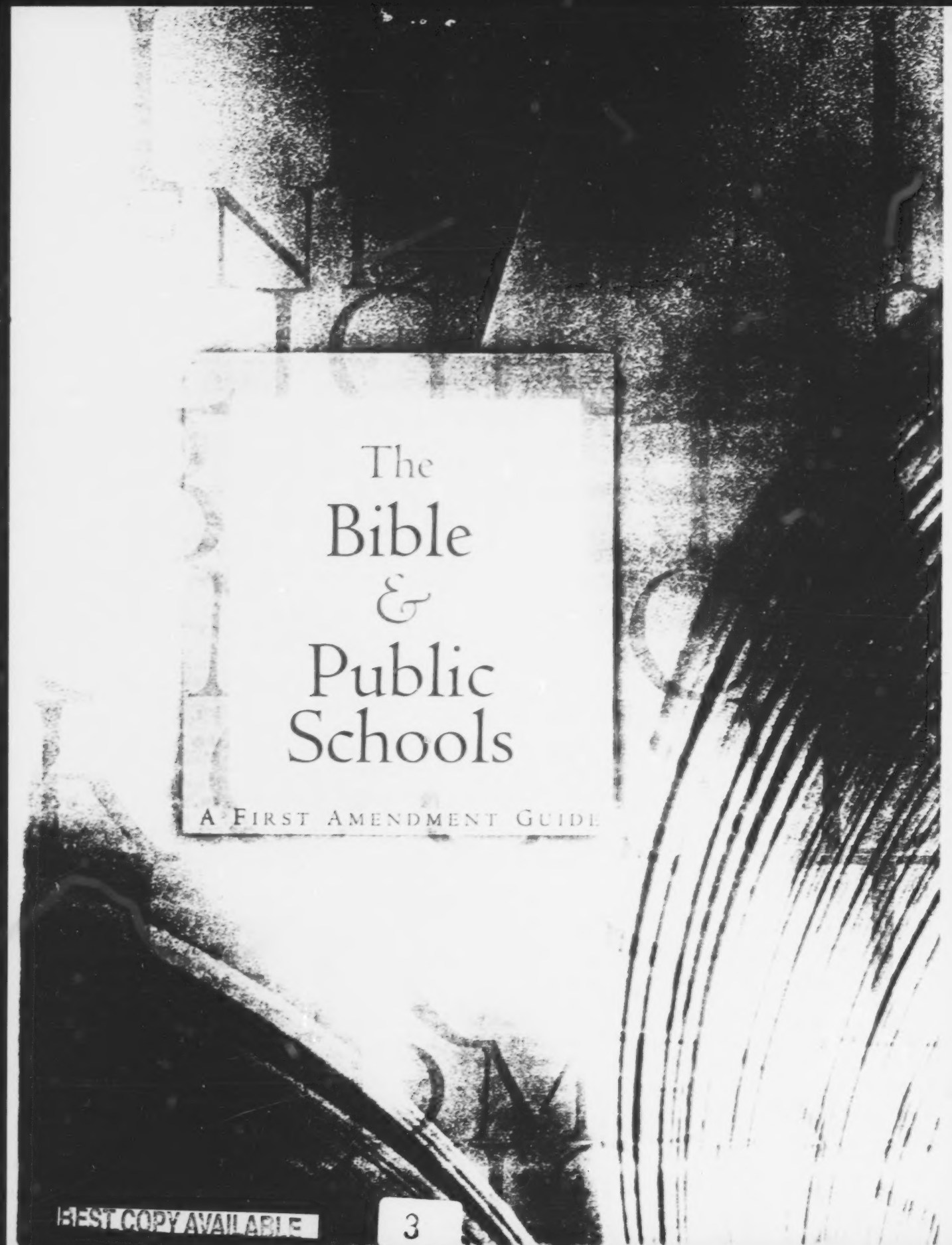

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The Bible & Public Schools

A First Amendment Guide

National Bible Association

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The Bible & Public Schools
A First Amendment Guide

The Search for Common Ground

Ending the confusion and conflict about the Bible and public schools would be good for public education and for our nation. But finding common ground will not be easy because Americans have been divided about this issue since the early days of the common school movement. "Bible wars" broke out in the 19th century between Protestants and Catholics over whose version of the Bible would be read each morning in the classroom. Lawsuits in the 1960s led to Supreme Court decisions striking down devotional Bible-reading by school officials. More recent conflicts have involved differences about the limits of student religious expression and the constitutionality of Bible courses offered in the curriculum.

Two Failed Models

If school districts are going to move from battleground to common ground on issues concerning the Bible[1] in the schools, they must move beyond the extremes that often dominate the debate. On one end of the spectrum are those who advocate what might be called the "sacred public school" where one religion (theirs) is preferred in school practices and policies. Characteristic of the early history of public education, this unconstitutional approach still survives in some school districts.

In more recent decades, there are those on the other end of the spectrum who push for what looks to some like a "religion-free zone" where religion is largely ignored in public schools.

A Third Model of Fairness and Respect

The sponsors of this guide reject both of these models and offer another approach – one in which public schools neither inculcate nor inhibit religion but become places where religion and religious conviction are treated with fairness and respect.

In this third model, public schools protect the religious-liberty rights of students of all faiths or none. And schools ensure that the curriculum includes study *about* religion as an important part of a complete education. This is a vision of public education that is both consistent with First Amendment principles and broadly supported by many educational and religious organizations.[2]

The advice offered in this guide draws on this shared vision and relies on recent consensus statements about the role of religion in public schools under current law.[3] The focus here is on the Bible because of the need to address the conflicts and confusion surrounding the Bible in the public-school curriculum. There are, of course, scriptures of other faith communities important to millions of Americans and worthy of study in a well-balanced curriculum. The constitutional and educational guidelines offered below apply to study about these scriptures as well.

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[1] There is no single Bible. There is the Jewish Bible (the Hebrew scriptures or Tanakh), and various Christian Bibles – such as Catholic, Protestant, and Orthodox – some with additional books, arranged in a different order. The use of the term "Bible" in this document is meant to be inclusive of the various versions and translations.

[2] See "Religious Liberty, Public Education, and the Future of American Democracy," a statement of principles sponsored by 24 religious and educational organizations. For a full text of the statement and a list of sponsors, contact the First Amendment Center.

[3] See "Religion in the Public Schools: A Joint Statement of Current Law," endorsed by 35 religious and religious-liberty organizations, and "Religious Expression in Public Schools," a directive issued by the U.S. Department of Education. Copies of the joint statement are available from the American Jewish Congress, 15 East 84th St., Suite 501, New York, NY 10028. For the guidelines issued by the U.S. Dept. of Education, call (877) 433-7827.

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The Bible and the Religious-Liberty Rights of Students

Many Americans continue to hold the mistaken view that the Supreme Court decisions in the 1960s concerning prayer and devotional Bible-reading prohibited students from expressing their faith in a public school. Actually, the Court did not eliminate prayer or the Bible from public schools; it barred *state-sponsored* religious practices, including devotional use of the Bible by public-school officials.

Student Religious Expression

In "Religion in the Public Schools: A Joint Statement of Current Law," 35 religious and civil liberties organizations give the following summary of the rights of students to express their faith in a public school:

> Students have the right to pray individually or in groups or to discuss their religious views with their peers so long as they are not disruptive. Because the Establishment Clause does not apply to purely private speech, students enjoy the right to read their Bibles or other scriptures, say grace before meals, pray before tests, and discuss religion with other willing student listeners. In the classroom students have the right to pray quietly except when required to be actively engaged in school activities (e.g., students may not decide to pray just as a teacher calls on them). In informal settings, such as the cafeteria or in the halls, students may pray either audibly or silently, subject to the same rules of order as apply to other speech in these locations. However, the right to engage in voluntary prayer does not include, for example, the right to have a captive audience listen or to compel other students to participate.

Student Religious Clubs

The Equal Access Act, passed by Congress in 1984, ensures that students in public secondary schools may form religious clubs, including Bible clubs, if the school allows other extracurricular groups.[4] The Act is intended to protect *student-initiated* and *student-led* meetings. Outsiders may not "direct, conduct, control, or regularly attend" student religious clubs, and faculty acting as monitors may be present at religious meetings in a non-participatory capacity only.[5]

The guidelines on "Religious Expression in Public Schools," issued by the U.S. Department of Education, give the following guidance for interpreting the Equal Access Act:

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[4] The constitutionality of the Equal Access Act was upheld by the Supreme Court in *Westside Community Schools v. Mergens*, 496 U.S. 226 (1990).

[5] The requirements of the Equal Access Act are described in detail in "Equal Access and the Public Schools: Questions and Answers," a pamphlet sponsored by 21 religious and educational groups. The full text is available from the First Amendment Center.

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The Equal Access Act is designed to ensure that, consistent with the First Amendment, student religious activities are accorded the same access to public school facilities as are student secular activities. Based on decisions of the Federal courts, as well as its interpretations of the Act, the Department of Justice has advised that the Act should be interpreted as providing, among other things, that:

>Student religious groups at public secondary schools have the same right of access to school facilities as is enjoyed by other comparable student groups. Under the Equal Access Act, a school receiving Federal funds that allows one or more student noncurriculum-related clubs to meet on its premises during noninstructional time may not refuse access to student religious groups.

>A meeting, as defined and protected by the Equal Access Act, may include a prayer service, Bible reading, or other worship exercise.

>A school receiving Federal funds must allow student groups meeting under the Act to use the school media – including the public address system, the school newspaper, and the school bulletin board – to announce their meetings on the same terms as other noncurriculum-related student groups are allowed to use the school media. Any policy concerning the use of school media must be applied to all noncurriculum-related student groups in a nondiscriminatory manner. Schools, however, may inform students that certain groups are not school sponsored.

>A school creates a limited open forum under the Equal Access Act, triggering equal access rights for religious groups, when it allows students to meet during their lunch periods or other noninstructional time during the school day, as well as when it allows students to meet before and after the school day.

Distribution of Religious Literature

An increasing number of students are requesting permission to distribute religious literature, including Bibles, on public-school campuses. According to the guidelines issued by the U.S. Department of Education:

> Students have a right to distribute religious literature to their schoolmates on the same terms as they are permitted to distribute other literature that is unrelated to school curriculum or activities. Schools may impose the same reasonable time, place, and manner or other constitutional restrictions on distribution of religious literature as they do on nonschool literature generally, but they may not single out religious literature for special regulation.

The Bible and the Public-School Curriculum

Educators widely agree that study *about* religion, where appropriate, is an important part of a complete education. Part of that study includes learning about the Bible in courses such as literature and history. Knowledge of biblical stories and concepts contributes to our understanding of literature, history, law, art, and contemporary society.

What do the courts say?

The Supreme Court has held that public schools may teach students about the Bible as long as such teaching is "presented objectively as part of a secular program of education."[6]

The Court has also held that religious groups may not teach religious courses on school premises during the school day.[7] The U.S. Department of Education guidelines reiterate that public schools "may not provide religious instruction, but they may teach *about* religion, including the Bible or other scripture."[8] In keeping with the First Amendment's mandate of governmental neutrality toward religion, any study of religion in a public school must be *educational*, not devotional. This principle holds true whether teaching about the Bible occurs in literature, history or any other class and whether the course is required or an elective.

A relatively small number of lower court decisions have dealt directly with the constitutionality of Bible classes in public schools.[9] These rulings show that the constitutionality of such classes is highly dependent on such factors as how the class is taught, who teaches it, and which instructional materials and lessons are used.

How the class is taught. Any class about the Bible must be taught in an *objective*, academic manner.[10] The class should neither promote nor disparage religion, nor should it be taught from a particular sectarian point of view.[11]

Who teaches the class. A superintendent or school board should select teachers for a class about the Bible in the same manner all other teachers are selected.[12] School districts should not delegate the employment of such teachers to an outside committee that selects teachers based upon their religious beliefs or perspectives.[13] Teachers should be selected based upon their academic qualifications, rather than their religious beliefs or nonbeliefs.[14] Teachers should not be disqualified, however, simply because they have received religious training.[15]

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[6] *School District of Abington Twp v. Schempp*, 374 U.S. 203, 225 (1963). See *Stone v. Graham*, 449 U.S. 39, 42 (1980) (per curiam).

[7] *McCollum v. Board of Education*, 333 U.S. 203 (1948).

[8] "Religious Expression in Public Schools," Department of Education, Letter from Secretary Richard Riley (August 10, 1995) (original emphasis).

[9] See *Hall v. Board of Commissioners of Conecuh County*, 656 F.2d 999 (5th Cir. 1981); *Gibson v. Lee County School Board*, 1 F. Supp.2d 1426 (M.D. Fla. 1998); *Chandler v. James*, 985 F. Supp. 1062 (M.D. Ala. 1997); *Herdahl v. Pontotoc County School District*, 933 F. Supp. 582 (N.D. Miss. 1996); *Doe v. Human*, 725 F. Supp. 1503 (W.D. Ark. 1989), *aff'd without opinion*, 923 F.2d 857 (8th Cir. 1990), *cert. denied*, 499 U.S. 922 (1991); *Crockett v. Sorenson*, 568 F. Supp. 1422 (W.D. Va. 1983); *Wiley v. Franklin*, 468 F. Supp. 133 (E.D. Tenn. 1979), *supp. op.*, 474 F. Supp. 525 (E.D. Tenn. 1979), *supp. op.*, 497 F. Supp. 390 (E.D. Tenn. 1980); *Vaughn v. Reed*, 313 F. Supp. 431 (W.D. Va. 1970). *Compare Malnak v. Yogi*, 592 F.2d 197 (3d Cir. 1979) (holding unconstitutional a school course in which students participated in transcendental meditation ceremonies).

[10] *Schempp*, 374 U.S. at 225; *Graham*, 449 U.S. at 42; *Hall*, 656 F.2d at 1002; *Gibson*, 1 F. Supp. 2d at 1432; *Chandler*, 985 F. Supp. at 1063; *Herdahl*, 933 F. Supp. at 592; *Human*, 725 F. Supp. at 1508; *Crockett*, 568 F. Supp. at 1427; *Wiley*, 497 F. Supp. at 392, 394; *Vaughn*, 313 F. Supp. at 433; *Malnak v. Yogi*, 592 F.2d 197 (3d Cir. 1979) (holding unconstitutional a school course in which students participated in transcendental meditation ceremonies).

[11] *Wiley*, 497 F. Supp. at 394. See also, *Gibson*, 1 F. Supp.2d at 1433-34; *Herdahl*, 933 F. Supp. at 595.

[12] *Crockett*, 568 F. Supp. at 1431. See also, *Gibson*, 1 F. Supp.2d at 1433; *Vaughn*, 313 F. Supp. at 434.

[13] *Herdahl*, 933 F. Supp. at 593-594; *Wiley*, 468 F. Supp. at 152.

[14] *Wiley*, 468 F. Supp. at 152.

[15] *Wiley*, 497 F. Supp. at 393.

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Funding for an elective course in religion may be provided by outside sources as long as the funds are contributed with "no strings attached."[16]

Which instructional materials are used. Decisions concerning instructional materials, including which translation of the Bible may be used, should remain under the control of the board of education.[17] The Bible may be used as a primary text, although it probably should not be the only text for a course.[18] Schools should avoid the use of instructional materials and lessons that are of a devotional nature, such as those used in a Sunday school. Supernatural occurrences and divine action described in the Bible may not be taught as historical fact in a public school.[19] The historicity of many persons and events described in the Bible may or may not be confirmed by evidence outside of biblical literature. For a fuller discussion of how to address different interpretations and approaches to the question of historicity, see the "Bible electives in history" section on page 7.

Teaching *about* the Bible

If teachers are to understand clearly how to teach *about* the Bible – and to feel safe doing so – then local school boards should adopt policies on the role of study about religion in the curriculum. The policy should reflect constitutional principles and current law, and should be developed with the full involvement of parents and other community members. Parents need to be assured that the goals of the school in teaching about religion, including teaching about the Bible, are academic and not devotional, and that academic teaching about the Bible is not intended to either undermine or reinforce the beliefs of those who accept the Bible as sacred scripture or of those who do not. Faith formation is the responsibility of parents and religious communities, not the public schools.

In recent years, a consensus has emerged among many religious and educational groups about the appropriate role for religion in the public-school curriculum. In 1989, a coalition of 17 religious and educational organizations issued the following statements to distinguish between teaching *about* religion in public schools and religious indoctrination:

>The school's approach to religion is *academic*, not *devotional*.

>The school may strive for student *awareness* of religions, but should not press for student *acceptance* of any religion.

>The school may sponsor *study* about religion, but may not sponsor the *practice* of religion.

>The school may *expose* students to a diversity of religious views, but may not *impose, discourage, or encourage* any particular view.

>The school may *educate* about all religions, but may not *promote or denigrate* any religion.

>The school may *inform* the student about various beliefs, but should not seek to *conform* him or her to any particular belief.[20]

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[16] *Crockett*, 568 F. Supp. at 1431. See also, *Gibson*, 1 F. Supp 2d at 1433; *Herdahl*, 933 F. Supp. at 598-599.

[17] *Crockett*, 568 F. Supp. at 1431. See also, *Gibson*, 1 F. Supp 2d at 1433.

[18] *Herdahl*, 933 F. Supp. at 595 & n 9, 600. See also, *Hall*, 656 F 2d at 1002-1003; *Wiley*, 468 F. Supp. at 151; *Chandler*, 985 F. Supp. at 1063.

[19] *Gibson*, 1 F. Supp 2d at 1434; *Herdahl*, 933 F. Supp. at 596, 600; *Wiley*, 474 F. Supp. at 531.

[20] This consensus statement, as well as extensive guidelines and resources for teaching about religion in public schools, can be found in *Finding Common Ground: A First Amendment Guide to Religion and Public Education* by Charles C. Haynes and Oliver Thomas. *Finding Common Ground* is available at cost from the First Amendment Center.

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When teaching about the Bible in a public school, teachers must understand the important distinction between advocacy, indoctrination, proselytizing, and the practice of religion – which is unconstitutional – and teaching *about* religion that is objective, nonjudgmental, academic, neutral, balanced, and fair – which is constitutional.

Which Bible?

Selecting a Bible for use in literature, history, or elective Bible courses is important, since there is no single Bible. There is a Jewish Bible (the Hebrew Scriptures, or *Tanakh*), and there are various Christian Bibles – such as Catholic, Protestant, and Orthodox – some with additional books, arranged in a different order. These differences are significant. For example, Judaism does not include the Christian New Testament in its Bible, and the Catholic Old Testament has 46 books while the Protestant has 39. There are also various English translations within each of these traditions.

To adopt any particular Bible – or translation – is likely to suggest to students that it is normative, the best Bible. One solution is to use a biblical sourcebook that includes the key texts of each of the major Bibles or an anthology of various translations.

At the outset and at crucial points in the course, teachers should remind students about the differences between the various Bibles and discuss some of the major views concerning authorship and compilation of the books of the Bible. Students should also understand the differences in translations, read from several translations, and reflect on the significance of these differences for the various traditions.

Which interpretation?

The Bible is interpreted in many different ways, religious and secular. For example: In Judaism, the Hebrew Bible is typically read through the eyes of various rabbinic commentators. For Roman Catholics, the authoritative interpretation of the church is crucial for understanding the Bible. Some Christians and Jews use the findings of modern secular scholarship to interpret the Bible, while others reject some or all of modern scholarship.

Because there are many ways to interpret the Bible – religious and secular – public-school teachers should expose students to a variety of interpretations. Teachers should allow students to encounter the text directly (like any primary source), and then draw on the resources of different religious and secular interpretative traditions for understanding it. To do this effectively requires the use of secondary sources that provide a discussion of the various religious and secular approaches to the Bible.

Teacher selection and preparation

Teaching about the Bible, either in literature and history courses or in Bible electives, requires considerable preparation. School districts and universities should offer in-service workshops and summer institutes for teachers who are teaching about the Bible in literature and history courses.

When selecting teachers to teach Bible electives, school districts should look for teachers who have some background in the academic study of religion. Unless they have already received academic preparation, teachers selected to teach a course about the Bible should receive substantive in-service training from qualified scholars before being permitted to teach such courses. Electives in biblical studies should only be offered if there are teachers academically competent to teach them.

For the future, we recommend changes in teacher education to help ensure that study about religion, including the Bible, is done well in public schools. Literature and history teachers should be encouraged,

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as part of their certification, to take at least one course in religious studies that prepares them to teach about religions in their subject. Teachers who wish to teach a Bible elective should have taken college-level courses in biblical studies. Eventually, religious studies should become a certifiable field, requiring at least an undergraduate minor. State departments of education will need to set certification requirements, review curriculums, and adopt appropriate academic standards for electives in religious studies.

The Bible and literature

Academic study of the Bible in a public secondary school may appropriately take place in literature courses. Students might study the Bible *as* literature. They would examine the Bible as they would other literature in terms of aesthetic categories, as an anthology of narratives and poetry, exploring its language, symbolism, and motifs. Students might also study the Bible *in* literature, the ways in which later writers have used Bible literature, language, and symbols. Much drama, poetry, and fiction contains material from the Bible.

Bible electives in literature

A literature elective in the Bible would focus on the Bible as a literary text. This might include the Bible *as* literature and the Bible *in* literature. A primary goal of the course would be basic biblical literacy – a grasp of the language, major narratives, symbols, and characters of the Bible. The course might also explore the influence of the Bible in classic and contemporary poems, plays, and novels.

Of course, the Bible is not simply literature – for a number of religious traditions it is *scripture*. A "Bible Literature" course, therefore, could also include some discussion of how various religious traditions understand the text. This would require that literature teachers be adequately prepared to address in an academic and objective manner the relevant, major religious readings of the text.

The Bible and history

The study of history offers a number of opportunities to study about the Bible. When studying the origins of Judaism, for example, students may learn different theories of how the Bible came to be. In a study of the history of the ancient world, students may learn how the content of the Bible sheds light on the history and beliefs of Jews and Christians – adherents of the religions that affirm the Bible as scripture. A study of the Reformation might include a discussion of how Protestants and Catholics differ in their interpretation and use of the Bible.

In U.S. history, there are natural opportunities for students to learn about the role of religion and the Bible in American life and society. For example, many historical documents – including many presidential addresses and congressional debates – contain biblical references. Throughout American history, the Bible has been invoked on various sides of many public-policy debates and in conjunction with social movements such as abolition, temperance, and the civil rights movement. A government or civics course may include some discussion of the biblical sources for parts of our legal system.

Learning about the history of the Bible, as well as the role of the Bible in history, are appropriate topics in a variety of courses in the social studies.

Bible electives in history

An elective history course that focuses on the Bible is a difficult undertaking for public schools because of the complex scholarly and religious debates about the historicity of the Bible. Such a course would need to include non-biblical sources from a variety of scholarly perspectives. Students would study archeological findings

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and other historical evidence in order to understand the history and cultures of the ancient world. Teachers who may be assigned to teach a history course focused on the Bible need a great deal of preparation and sophistication.

Unless schools are prepared to design a course that meets the above requirements, they will face legal and educational challenges. In view of these requirements, most public schools that have offered a Bible elective have found it safer and more age-appropriate to use the Bible literature approach discussed earlier in this guide.

Schools must keep in mind that the Bible is seen by millions of Jews and Christians as *scripture*. For adherents of these faiths, the Bible makes sense of events in terms of God's purposes and actions. This means that the Bible may not be treated as a history textbook by public-school teachers but must be studied by examining a variety of perspectives – religious and non-religious – on the meaning and significance of the biblical account.

As we have already noted, sorting out what is *historical* in the Bible is complicated and potentially controversial. Teachers who teach a history course focused on the Bible need to be sensitive to the differences between conventional secular history and the varieties of sacred history. Students must learn something about the contending ways of assessing the historicity of the Bible. They cannot be uncritically taught to accept the Bible as literally true, as history. Nor should they be uncritically taught to accept as historical only what secular historians find verifiable in the Bible.

Sometimes, in an attempt to make study about the Bible more "acceptable" in public schools, educators are willing to jettison accounts of miraculous events. But this too is problematic, for it radically distorts the meaning of the Bible. For those who accept the Bible as scripture, God is at work in history, and there is a religious meaning in the patterns of history. A Bible elective in a public school may examine all parts of the Bible, as long as the teacher understands how to teach *about* the religious content of the Bible from a variety of perspectives.

The Bible and world religions

Given the importance and influence of religion, public schools should include study about religion in some depth on the secondary level. As we have suggested, such study may include study about the Bible, where appropriate, in history and literature courses as well as in elective courses that deal with the Bible.

However, a course that includes study about the Bible and its influence will not educate students about religion generally. Just as there is more to history than American history, so there is more to religion than the Bible, Judaism, and Christianity.

Public schools should also include study about other religious faiths in the core curriculum and offer electives in world religions. Because religion plays a significant role in history and society, study about religion is essential to understanding both the nation and the world. Moreover, knowledge of the roles of religion in the past and present promotes cross-cultural understanding in our increasingly diverse society.

Some school districts require that high schools offering a Bible elective also offer an elective in world religions. There is considerable merit in this approach. This gives students an opportunity to learn about a variety of religions and conveys to students from faiths other than the biblical traditions that their religions are also worthy of study. It is important for public schools to convey the message that the curriculum is designed to offer a good education, and not to prefer any religious faith or group.

Elementary education

The study of family, community, various cultures, the nation, and other themes and topics important in elementary education may involve some discussion of religion. Elementary students are introduced to the basic ideas and practices of the world's major religions in a number of textbooks and curriculums used in public

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schools. These discussions of religion focus on the generally agreed-upon meanings of religious faiths – the core beliefs and symbols, as well as important figures and events. Such discussions may include an introduction to biblical literature as students learn something about the various biblical faiths.

This early exposure to study about religion builds a foundation for later, more complex discussions in secondary school literature and history courses. Such teaching is introductory in nature; elementary education is not the place for in-depth treatment of religion. Stories drawn from various religious faiths may be included among the wide variety of stories read by students. But the material selected must always be presented in the context of learning *about* religion.

One court has permitted elective Bible courses at the elementary level.[21] But if such instruction is undertaken, it must be done academically and objectively by a qualified teacher. Children would need to understand that they are studying about what the people of a particular religious tradition believe and practice. Devotional books intended for faith formation or religious education may not be used in a public-school classroom.

As in secondary schools, a balanced and fair curriculum in the elementary grades would not limit study about religion to Judaism and Christianity, but would include a variety of the world's major religious faiths.

[21] *Wiley v. Franklin*, 468 F. Supp. 133 (E.D. Tenn. 1979).

The bible and Public Schools A First Amendment Guide is published by

National Bible Association
First Amendment Center.

The Guide has been endorsed by the following organizations:

American Association of Schools Administrators
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